

No Protest received

TLS

Date 2/27/84

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Accounting Period Ending: [REDACTED]

02 FEB 1984

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

You indicate in your application that you were formed on [REDACTED]. No executed document has been submitted which sets forth that date as the date of your creation. You indicate that the first hearing for your formation was on [REDACTED] and that approval for your formation was dated [REDACTED]. A document entitled "Articles of Organization" and referenced as "Certificate of Adoption of Bylaws" was adopted on [REDACTED].

The [REDACTED], [REDACTED] document provides that you are organized exclusively for the purpose of maintenance and repair of the roads in the [REDACTED] District.

[REDACTED] through [REDACTED] provides for the formation of the special roads districts. [REDACTED] provides that the special road district is a municipal corporation for the purpose of improving roads in the district. [REDACTED] provides that the powers of the special road district are vested in the Commissioners who are appointed by the County Court. The commissioners are required to take and subscribe an oath to support the Constitution and laws of the State of [REDACTED] and of the United States before entering into office. [REDACTED] provides that the special road district has the power to make contracts; acquire, hold, receive and dispose of real and personal property; sue and be sued; exercise the power of eminent domain; assess, levy and collect taxes not to exceed .0025 percent of the value of all taxable real property within the district, and to do any other act necessary to carry out the purposes of [REDACTED] through [REDACTED].

The tax base for your operating funds is established upon the approval of the voters of the district through special elections. Approval is required of the electorate before the Commissioners can levy the tax approved. If the majority of the voters are in favor of the levy, [REDACTED] provides

that the County Clerk shall inform the County Court and the Court shall direct that the tax authorized in the election be certified to the County Assessor for extension upon the next assessment roll of the County.

Section 501(a) of the Code provides for the exemption from federal income tax of certain organizations.

Section 501(c)(3) of the Code provides for the exemption of corporations and any community chest, fund, or foundation that is organized and operated exclusively for the purposes listed therein.

Section 1.501(c)(3)-1(b)(1)(i) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- "(a) Limit the purposes of such organization to one or more exempt purposes, and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes."

Revenue Ruling 60-384, 1960-2 C.B. 172, provides that a wholly-owned state or municipal instrumentality that is a separate entity and a counterpart of an organization described in section 501(c)(3) of the Code may qualify for exemption under that section. However, a state or municipality itself would not qualify under section 501(c)(3) since its purposes are not exclusively those described in 501(c)(3). It follows, therefore, that where a particular branch or department is an integral part of the state or municipal government the requirements of section 501(c)(3) would not be met.

Revenue Ruling 62-66, 1962-1 C.B. 83 provides that an activity constituting an integral part of a state or municipal government cannot qualify as a 501(c)(3) organization inasmuch as the organization would be the state or municipal government, which cannot qualify as an organization described in section 501(c)(3) of the Code.

Revenue Ruling 74-15, 1974-1 C.B. 126 holds that an organization clothed with powers beyond those of an organization described in section 501(c)(3), would not be a clear counterpart of an organization described in section 501(c)(3).

Sections 501(a) and 501(c)(3) speak only to the exemption of certain "organizations." Although a group of individuals might be utilized by a government body as its instrumentality for the conduct of a particular undertaking, such a group unless it is a distinct organization from the governing body and its activities are other than an integral part of the governing body, could not qualify for exemption under section 501(c)(3) because its activities would be considered the activities of the governmental unit. In your case your Commissioners are municipal officials appointed by [REDACTED]. The electorate of the district

[REDACTED]

voted for approval of your formation, and vote for approval of your tax base and the tax levy. Although [REDACTED] through [REDACTED] provides for the formation of special road districts as municipal corporations and [REDACTED] confers powers to such special road districts, as set forth above, the information submitted indicates that you are not other than an integral part of the government of [REDACTED]. Thus, you fail to meet the 501(a) threshold requirement of being an organization. See Rev. Ruls. 60-384 and 62-66.

In addition, if it were determined that you constitute other than an integral part of the government, you would not qualify for exemption under section 501(c)(3) of the Code because you fail to satisfy section 1.501(c)(3)-1(b)(1)(i) of the regulations. The power to assess, levy and collect taxes conferred upon you by [REDACTED] are powers beyond those described in section 501(c)(3) of the Code. Thus, you cannot be considered a counterpart of an organization described in section 501(c)(3) of the Code. See Rev. Ruls. 60-384 and 74-15 and Rev. Rul. 74-14, 1974-1 C.B. 125.

Based on the information submitted, we conclude that you are not exempt from federal income tax under section 501(c)(3) of the Code. In view of this conclusion, contributions to you are not deductible under section 170(a)(2) of the Code. Further, because it has not been established that you are other than an integral part of the government, no subsection of section 501(a) would be applicable to you.

However, in the event that you are a political subdivision of the State of [REDACTED], or a wholly-owned instrumentalify of a political subdivision thereof, contributions to you may be deductible under section 170(c)(1), to the extent provided in section 170(b). If you wish a determination as to whether you are an instrumentality or political subdivision, you should request a ruling from the Assistant Commissioner (Technical), 1111 Constitution Avenue, N.W., Washington, D.C. 20224. Such request should be filed in accordance with Rev. Proc. 84-1, 1984-1, C.B. 10.

You have the right to protest this proposed ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 21 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practice procedures.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under that section shall not be issued in any proceeding unless the Tax Court, Claims Court, or District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Service.

[REDACTED]

If we do not hear from you within 21 days, this ruling will become final, and copies of it will be forwarded to the District Director, Seattle, Washington. Thereafter, any questions about your federal income tax status or the filing of tax returns should be addressed to that office.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: [REDACTED]. These symbols do not refer to your case but rather to its location.

In accordance with section 6104(c) of the Code, the appropriate state officials will be notified of this action.

Sincerely yours,

(Signed) [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch

cc: [REDACTED]
[REDACTED]